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CONCORD, N.H.

Mr. Maurice Zing, Secretary
N. H. Firemen's Retirement Board
230 Walnut Street
Manchester, New Hampshire

Dear Mr. Zing:

This will acknowledge receipt of your letter of April 17, 1958, in which you request the opinion of this office with regard to an interpretation of some of the provisions of the Firemen's Retirement System (RSA 102, as amended).

You first refer to RSA 102:13, as amended, which sets the ages for voluntary and compulsory retirement and request out opinion as to whether permanent firemen must retire from active duty upon reaching the age of sixty-five. This section of the law was last amended by Laws 1957, chapter 15, section 2. The pertinent part of that section as so amended provides: "All permanent firemen who accept the provisions hereof and who have served as permanent firemen for twenty years shall retire from active service at the age of sixty-five." However, section 6 of chapter 15, Laws of 1957, provides: "The provisions of section 2 making it compulsory for certain firemen to retire from active service at the age of sixty-five shall be effective as of January 1, 1959. The remaining provisions of this act shall take effect as of July 1, 1957." As you undoubtedly know, the law provided for compulsory retirement at the age of seventy rather than at the age of sixty-five prior to the above quoted 1957 amendment. Accordingly, since the compulsory retirement age of sixty-five does not become effective until January 1, 1959, any permanent fireman who will not attain age seventy prior to January 1, 1959, may remain on active duty until that date. However all permanent firemen who attain age sixty-five on or before January 1, 1959 must retire by that date if they have served as permanent firemen for twenty years.

Mr. Maurice Zing, Secretary

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You also state that your understanding of the definition of the term "permanent fireman" as set forth in RSA 102:2, I, includes any permanent member of any fire department who contributes to the Firemen's Retirement System regardless of his classification in the Department ranging from chief to a probationary fireman member and inquire as to whether your interpretation is correct.

Our answer is in the affirmative. The definition of "permanent fireman" set forth in this section includes "a private fireman or officer regularly employed on full time duty by any fire department of any city, town or precinct in the state." This is broad enough to include anyone regularly employed on full time duty by a fire department regardless of his classification. See also RSA 102:13, as amended, which has been referred to above, the last sentence of which provides that probationary periods of permanent firemen shall be counted as part of their term of service.

Very truly yours,

John J. Zimmerman
Assistant Attorney General

JJZ/lr